IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Crl.MC.No. 3678 of 2006()

AGAINST THE ORDER DATED 05/07/2006 IN CRMP.3295/2006 IN CC.133/2006 of CHIEF JUDICIAL MAGISTRATE, KALPETTA

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PETITIONER: PETITIONER

ABDULLA, S/O.IBRAHIM,
KOLLAMPARAMBIL VEEDU, MEPPADY,
WAYANAD DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE
SMT.CELINE JOSEPH

RESPONDENTS: RESPONDENT

STATE-S.H.O. MEPPADY POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3678 OF 2006

Dated this the 5th day of December, 2006

ORDER

The petitioner – a rider of a two wheeler, was involved in an accident. There was a collusion between his two wheeler and an autorikshaw coming from the opposite direction. It is not disputed before me that the petitioner's vehicle was coming from north towards south and the autorikshaw was proceeding from south towards north. Investigation is complete. Initially, an F.I.R. was registered against the driver of the autorikshaw only. After completing the investigation, `A' and `B' charges have been filed against the petitioner as also the driver of the autorikshaw.

2. The petitioner is dissatisfied with the investigation which culminated in `A' and `B' charges including the charge against the petitioner. He therefore filed an application that further investigation may be directed to be conducted. The contention of the petitioner is that the petitioner was not on the wrong side of the road; but was on the correct side of the road and the accident had taken place solely on account of the

rashness and negligence of the driver of the autorikshaw.

3. The contention appeared to be impressive at the first blush. The learned counsel for the petitioner and the learned Public Prosecutor were requested to advance their detailed arguments. Both of them have attempted to produce a sketch of the spot of the accident with the details available in the scene mahazar, a copy of which is produced as Annexure-III.

4. I shall carefully avoid any expression of opinion on merits on the acceptability of the contentions. But suffice it to say that the scene mahazar – Annexure-III clearly shows that the accident took place on the western tarred road margin which going by the admitted case of the accused that he was riding the scooter from north to south is the extreme wrong side of the road so far as he is concerned.

5. I do not, in these circumstances, find any merit in the contention that there must be a further investigation. There is no specific contention even raised that the accident did not take place on the western side of the road; but on the eastern side of the road.

6. This Crl.M.C. is, in these circumstances, dismissed. But

I may hasten to observe that I have not intended to express any opinion on the merits of the acceptability of the contentions raised by the petitioner. The petitioner shall be at liberty to raise all such contentions before the learned Magistrate.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge